



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

August 16, 1947

Hon. Hall H. Logan, Chairman,
State Board of Control,
Austin, Texas

Opinion No. V-349

Re: Disposition of psy-
chiatric patients
from prison system.

Dear Sir:

Your letter requesting an opinion upon the
above subject matter contains the following information:

"The Superintendent of our Rusk
State Hospital, in whose district is lo-
cated the Huntsville Prison, has brought
to us the matter of admission of patients
who have been adjudged insane by the courts
of Walker County who are prisoners of the
Texas Prison System.

"We have thirteen of these cases
pending and I have been informed that there
are approximately fifty more. We have in
the past taken a limited number of these
and the Superintendent states: 'Of the
group I have taken I find that it takes ex-
tra employees as we have three who would
not hesitate to do harm to anyone . . .'

"We request your opinion as to wheth-
er our hospital should be required to take
these inmates when two years ago there was
built at the Prison System a hospital for
psychiatric patients, but at that time there
was no appropriation for psychiatrists. Ef-
fective September 1, 1947, in the New House
Bill the Prison System will receive an appro-
priation for psychiatrists."

There has been no court opinion touching the
subject matter of your inquiry; but this Department, in
Opinion No. O-7460, under date of December 20, 1946, ad-
dressed to Hon. D. W. Stakes, General Manager, Texas

Prison System, forecast the answer to be given.

It was stated in that opinion:

"Although there may be a hospital within the prison walls suitable for the housing of insane, it is not properly staffed as called for in Article 6203e, and therefore for all practical purposes it is not the State Prison Psychopathic Hospital as contemplated by Article 6203e.

"It is the further opinion of this Department that until the hospital is properly staffed and equipped all insane persons should be sent to a state hospital in accordance with Article 3186a, V.A.C.S., and Article 932a, V.C.C.P."

At the time that opinion was written the State Prison Psychopathic Hospital, created under Senate Bill No. 170 of the 42nd Legislature, had not been staffed and equipped for the care of insane inmates of the penitentiary, which fact controlled the advice. That condition continues to exist. Hence, until September 1, 1947, you will be guided by Opinion O-7460.

As stated by you, the appropriation for the Texas Prison System for the coming biennium carries an item for a psychiatrist. (Acts 1947, S. B. 391, ch. 400, Vernon's Session Service, p. 897, item 23).

You are therefore advised that effective September 1, 1947, Section 1 of Article 6203e of Vernon's Civil Statutes controls the answer to your question. It is there provided:

"There shall be built, established and maintained as a part of the Prison System of Texas an institution for the examination, observation, treatment and incarceration of all persons who have been convicted of felony, who have been duly adjudged insane by any competent court at law in the State of Texas; and, who have been acquitted by a court of competent jurisdiction upon the grounds

of insanity; said institution to be known as the State Prison Psychopathic Hospital."

The State Prison Psychopathic Hospital has been established and constructed. On September 1, 1947 it will be staffed for the "examination, observation, treatment and incarceration" of such patients as you mention. Hence it will become on September 1, 1947, the proper place for such persons rather than the other mental hospitals maintained by the State.

SUMMARY

The State Prison Psychopathic Hospital established and maintained under Senate Bill 170 of the 42nd Legislature upon September 1, 1947 will become the proper place for the detention and treatment of patients from the State Prison System. Until that date, such patients should be sent to a state hospital.
Opinion O-7460.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By /s/ Ocie Speer
Ocie Speer
Assistant

OS:wb:jrb

APPROVED:

/s/ Fagan Dickson
Fagan Dickson
FIRST ASSISTANT